

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

WALTER B. KELLETT,)	
)	
)	
Plaintiff,)	
)	
)	
v.)	Case No. 2:11-cv-3045-JTF-tmp
)	
MEMPHIS LIGHT, GAS & WATER,)	
)	
Defendant.)	
)	
)	

**ORDER ADOPTING REPORT AND RECOMMENDATION
DENYING PLAINTIFF’S MOTION TO AMEND COMPLAINT**

Before the Court is the Plaintiff’s Motion to Amend the Complaint filed on June 5, 2013. (DE #25). On June 24, 2013, Defendant filed a Response in Opposition to Plaintiff’s Motion for Leave to File an Amended Complaint. (DE #28). This case was referred to the Magistrate Judge pursuant to 28 U.S.C. §§636- 639. (DE #17). On August 28, 2013, the Magistrate Judge entered his report, recommending that Plaintiff’s Motion to Amend the Complaint be denied because: 1) the Amended Complaint would not survive a Fed. Rule Civ. P. 12 (b)(6) dismissal; 2) the Amended Complaint would not relate back to the original pleading; and 3) Plaintiff has failed to assert a sufficient basis to warrant equitable tolling. (DE #33). No objections have been filed to the Magistrate Judge’s Report and Recommendation.

After reviewing the Magistrate Judge’s Report and Recommendation and the entire record in this case, the Court hereby ADOPTS the Magistrate Judge’s Report and Recommendation and DENIES Plaintiff’s Motion to Amend the Complaint.

IT IS SO ORDERED this 9th day of December, 2013.

s/John T. Fowlkes, Jr.
JOHN T. FOWLKES, JR.
UNITED STATES DISTRICT JUDGE